

**Chapter 130. Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection**

**Emergency preamble.** Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 355: Sand Dune Rules, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if Chapter 355 is amended in that section relating to new construction in frontal dunes and designated as section 6, paragraph B, subparagraph (1) to provide that elevators, in addition to ramps, that are required for compliance with the requirements of the federal Americans with Disabilities Act are exempt from the requirement that a new structure or addition to an existing structure may not be constructed on or seaward of a frontal dune. The rule must also be amended to provide that elevators or ramps serving buildings required to comply with the federal Americans with Disabilities Act must be designed and constructed so as to minimize intrusion on the frontal dune, including locating the structures to the rear of buildings or within areas of a lot already developed, such as a parking area. The Department of Environmental Protection is not required to hold hearings or conduct other formal proceedings prior to finally adopting this rule in accordance with this resolve; and be it further

**Sec. 2. Sand dune stakeholder meeting. Resolved:** That the Commissioner of Environmental Protection and the Commissioner of Conservation shall convene a meeting of sand dune stakeholders by May 15, 2004 to consider the following issues:

1. A comprehensive statewide beach nourishment policy that establishes priority areas and evaluates public and private funding sources, implementation timeframes and public access easements;
2. Wildlife and wildlife habitat management in the sand dune system;
3. A program for voluntary acquisition of storm-damaged properties or properties for dune enhancement or public access;
4. Improved state coastal hazard mitigation plans to direct federal spending;

5. Improved and increased public and private voluntary hazard mitigation programs;
6. Reconstruction of buildings in the frontal dune and v-zone;
7. Removal of the existing prohibition of the use of outdated v-zone maps; and
8. Regulatory incentives to encourage construction or reconstruction outside of the frontal dune; and be it further

**Sec. 3. Statewide beach nourishment policy. Resolved:** That by January 17, 2005, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the progress of the sand dune stakeholder meetings and shall submit draft revised sand dune rules and a statewide beach nourishment policy; and be it further

**Sec. 4. Recommendations. Resolved:** That by January 16, 2006, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters recommendations on a state acquisition program, wildlife habitat management initiatives and removal of the existing prohibition of the use of outdated v-zone maps; and be it further

**Sec. 5. Revised sand dune rules. Resolved:** That by January 16, 2006, the Department of Environmental Protection shall provisionally adopt and submit to the Legislature revised sand dune rules. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

**Sec. 6. Repeal. Resolved:** That the rules authorized pursuant to section 1 of this resolve are repealed April 1, 2006.

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.